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IN THE HIGH COURT OF JUDICTURE AT BILASPUR (CHHATTISGARH)

W.P. No. 347 /2001

(Public Interest litigation)

Petitioner Sardar Jaswant Singh Ajmani, aged about 53 years S/o Choudhari MunshiRam Ajmani, Ajmani Tent House, Dayalband, Bilaspur (C.G.)

Vs.

Respondents 1. Public Service Commission Madhya Pradesh Residency Area Indore (M.P.)

2. Shri Vinay Shankar Dubey S/o Not Known Chairman, Public Service Commission Residency Area, Indore (M.P.)

3. State of Madhya Pradesh Through Chief Secretary Vallabh Bhawan, Bhopal (M.P.)

4. State of Chhattisgarh Through Chief Secretary D.K. Bhawan, Raipur (C.G.)

Petition U/Article 226 of the Constitution of India for issuance of appropriate Writs of Mandamus, Certiorari, etc and directions and appropriate Orders etc.

A.F.R

HIGH COURT OF CHHATTISGARH: BILASPUR

(D.B. Hon'ble the Chief Justice W.A.Shishak &
Hon'ble Shri Justice Fakhruddin, JJ.)

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WRIT PETITION NO.847/2001.

Sardar Jaswant Singh Ajmani

Vs.

Public Service Commission M.P.& Others.

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O R D E R

Per Fakhruddin, J.

The petitioner has filed this petition styling as Public Interest Litigation. The petitioner has sought relief in para 7 to command all the records pertaining to marking in the interview conducted by the respondent no.1 for the Civil Services 1999-2000 and to quash the result/appraisal made by the respondents nos. 1 and 2. It is further prayed that the respondents be directed to further arrange for conducting the interview for all the successful candidates of the main examination, who were invited for the aforesaid interview under objective and impartial parameters fixed by the Court in the presence of experts to be appointed by the Court. It is further prayed in para 4 that the respondent no.4 to constitute Public Service Commission for the State of Chhattisgarh.

2) So far as constitution of Public Service Commission for the State of Chhattisgarh is concerned, Dr.N.K. Shukla, submits that Public Service Commission has been constituted.

3) The petitioner submits that he is M.A. in Sociology and Public Administration and B.Ed. He has been a teacher and has taken voluntary retirement. He is Secretary of Gyanodaya Shikshan Samiti.

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Counsel for the petitioner submits that the advertisement for various posts was published by M.P.P.S.C in 1999. Written test was conducted on 30/4/2000 and the main examination was conducted during 15th September, to 15th October, 2000. Interview was conducted between 21/3/2001 to 30/3/2001.

4) In para 3 of the petition it is averred that the petition is directed against the markings (evaluation) made by the respondent no.1 and more particularly at the instance of respondent no.2 for the interview of State Civil Services Examination after the eligible candidates as shown in the petition appeared at such interview having qualified in the written test (Main Exam) primarily on the ground of regionalism, 'new State' or 'other State'. The petitioner has made allegations in para 5.5 that the markings made by the respondent no.2 in his Chairmanship of the candidates domiciled in Chhattisgarh is an act and exercise as if in vendetta, subjectivisim, utter prejudice and deliberate design. The petitioner annexed some of the mark sheets belonging to the candidates stating to be that of Chhattisgarh to show the marks obtained by them in the main examination also as Annexure P/5. In para 5.5 the petitioner further alleged that the candidates of Chhattisgarh have been awarded marks to the extent of 20% (50 or so out of 250) against their score in written test to the extent of more than 50% and even touching or crossing 60% in some cases. It is averred that all the candidates of Chhattisgarh cannot perform so ignobly so as to be

awarded an abnormally low marking. Even in the past years, when the State of Madhya Pradesh was unified, the candidates of Chhattisgarh although treated step-motherly were never awarded such poor and low marks. The petitioner submits that through friends he has enquired from the candidates and others domiciled in the present State of Madhya Pradesh and Schokingly learnt that such candidates have been awarded on an average much more than 100 marks (constituting 40% to 45% marks) in most of the cases thereby creating an element of disfavour to the candidates from Chhattisgarh for no fault of theirs. It is stated that such deplorable though justiciable, gesture of predetermination and discrimination actuated due to malice for the candidates from Chhattisgarh was unwarrantedly exhibited by the Board (group) chaired by the respondent no.2. The candidates have informed the petitioner that they have answered their questions rather well in accordance with their merit already displayed in no objective, foolproof or unimpeachable parameter available to the said respondents for convincingly assessing the actual merit of the candidates if the same is not in approximation of the marks obtained in the preliminary and main examinations. It is alleged that she so-called evaluation in interview has been an exercise in political and other personal vendetta as hereinafter explained. The mark-sheets of the candidates of the existing State of Madhya Pradesh interviewed by the respondent no.2 and Annexure-P/6 is the mark-sheet of Kum. Anju Pasi has benifitted with petitioner at page no.71 and Pravin Kumar Naseri at page no.72. Newspaper cutting in Hindi is as follows:

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रायपुर। पी एस सी की लिखित परीक्षा में छत्तीसगढ़ के प्रतियोगियों ने धमाकेदार प्रदर्शन जरूर किया लेकिन मध्यप्रदेश में हुए इंटरव्यू में ज्यादातर प्रतियोगी निपट गए। छत्तीसगढ़ के किसी भी प्रतियोगी को विनयशंकर दुबे के इंटरव्यू बोर्ड से 250 में से 60 से ज्यादा नंबर दिए ही नहीं गए। इस वजह से ज्यादातर प्रतियोगी पीएससी के जरिए अफसर बनने से रह गए हैं।

छत्तीसगढ़ लोकसेवा आयोग बनने में हुई देरी का यह पहला झटका है जिसने लिखित परीक्षा में अच्छे नंबर पाने वाले छत्तीसगढ़ के उम्मीदवारों को क्लास वन या टू अफसर बनने से रोक दिया। इंटरव्यू में यहां के प्रतियोगियों के साथक्या हुआ, डीएसपी टापर श्वेता श्रीवास्तव के उदाहरण से यह बात आसानी से समझी जा सकती है। उन्हें इंटरव्यू में ढाई सौ में से सिर्फ 52 नंबर मिले हैं। अगर बोर्ड श्वेता को 60 नंबर दे देता तो वह डिप्टी कलेक्टर हो जातीं। वह इस मामले में अकेली नहीं हैं। छत्तीसगढ़ के तकरीबन सारे प्रतियोगियों का इंटरव्यू में यही हश्र हुआ है। जिन्होंने श्री खान एवं श्री गट्टा की अध्यक्षता वाले बोर्डों को इंटरव्यू दिया, सिर्फ उन्हीं को थोड़े ठीक-ठाक नंबर मिले हैं लेकिन वह भी 70-75 से ज्यादा नहीं हैं।

पीएससी में चुने जाने के लिये इंटरव्यू भी उतना ही महत्वपूर्ण होता है जितनी लिखित परीक्षा दोनों के अंक जोड़कर मेरिट लिस्ट बनती है और उसी सूची के आधार पर पदों का आवंटन होता है। अर्थात् मेरिट में अच्छी स्थिति बनाए रखने के लिए मेन्स रिटन के अलावा इंटरव्यू में भी अच्छे नंबर पाना जरूरी है। छत्तीसगढ़ के प्रतियोगियों के साथ यही हुआ कि उन्होंने लिखित परीक्षा में तो बेहतरीन नंबर हासिल कर लिए लेकिन इंटरव्यू में ऐसी दुर्गति हुई कि वह सलेक्शन से वंचित हो गए। "भास्कर" ने इनमें से दर्जनभर से ज्यादा उन प्रतियोगियों के नाम और उन्हें इंटरव्यू में मिले नंबर हासिल किए हैं जिनका लिखित परीक्षा में मिले नंबरों के आधार पर सलेक्शन तय था। लेकिन अब इन्हें एक मर्तबा फिर पीएससी में किस्मत आजमानी पड़ जाएगी। बिलासपुर की श्वेता श्रीवास्तव जिनका डिप्टी कलेक्टर बनना तय था, उनके इंटरव्यू के नंबर का जिक्र पहले ही किया जा चुका है। छत्तीसगढ़ के अरविंद खाखा को ढाई सौ में से 33, पवन वर्मा को 45, दीपम रायचुरा को 50, स्वाति जैन को 53, पिंकी चक्रवर्ती को 52, कौशल ठेठवार को 50,शिल्पा देशमुख को 58, तथा प्रीति राम को ढाई सौ में से महज 53 नंबर ही मिले हैं। अगर इन प्रतियोगियों को सिर्फ पांच से 15 नंबर ज्यादा मिलते तो इनका सलेक्शन हो जाता । इन सभी का लिखित परीक्षा में प्रदर्शन धमाकेदार रहा था औरकिसी का सलेक्शन नहीं हो सका। एक अन्य प्रतियोगी अजय साहू को 44 नंबर मिले लिहाजा उन्हें महिला एवं बाल विकास अधिकारी पद पर ही संतोष करना पड़ता।

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अगर अजय को 80 नंबर मिले होते तो वह डीएसपी होते। मध्यप्रदेश लोकसेवा आयोग की वर्ष 2000 की परीक्षा 115 पदों के लिए हुई थी। पीएससी मेन्स के नतीजे ऐसे थे कि अंकों के आधार पर छत्तीसगढ़ के करीब 70 लोगों का चयन होना तय था। "दैनिक भास्कर" ने तुरंत इस आशय की खबर तब प्रकाशित की थी। बताया जाता है कि छत्तीसगढ़ के बच्चों के उस धमाकेदार प्रदर्शन की मध्यप्रदेश में अच्छी प्रतिक्रिया नहीं थी। आरोप लगाया जा रहा है कि इंटरव्यू के दौरान यही बातें होती रहीं और अंततः इंटरव्यू ही के नंबरों ने सब कुछ बैलेंस कर दिया। इन नंबरों से छत्तीसगढ़ के वंचित प्रतियोगी हताश और क्षुब्ध हैं। उनका कहना है कि साक्षात्कार लेने वाले तीनों बोर्डों ने मध्यप्रदेश के सारे प्रतियोगिओं को छत्तीसगढ़ के प्रतियोगियों की तुलना में बहुत अच्छे नंबर दिए हैं। सबकी अंकसूची की जांच से इस बात की पुष्टि की जा सकती है। मध्यप्रदेश के इक्का-दुक्का प्रतियोगी ही ऐसे हैं जिन्हें 80 से कम नंबर मिले हैं।बाकी के अंक इससे ज्यादा हैं इसलिए प्रावीण्य सूची में उनकी पोजीशन मजबूत हो गई है।

हताश प्रतियोगियों ने छत्तीसगढ़ के मुख्यमंत्री से इस मामले में दखल देने का आग्रह किया है। खबर है कि कुछ वंचित प्रतियोगी छत्तीसगढ़ हाईकोर्ट की शरण में जाने की तैयारी में हैं।'

5) It is allged by the petitioner that the respondent no.2 was visibly annoyed within the knowledge of so many and it is the respondents nos. 1 and 2, who appears to have treated the candidates of Chhattisgarh as outsiders or liabilities for the respondent no.3 and then meted out the aforesaid treatment which was neither in good faith nor in bonafide exercise of jurisdiction. Individual competition being the crux of rating in merit would not allow the respondent no.2 in particular to thwart the prospects of all the unemployed candidates of the new State of Chhattisgarh in a blatant, stubborn and unethical exercise in the same discretion. The rights, immunities, privileges and jurisdiction conferred on the respondent no.2 as Chairman of the M.P.P.S.C., requires a standard degree of behaviour which is totally wanting in the facts and circumstances of the case, contended

petitioner and retariated his counsel at the bar.

6) In para 5.10 it is stated that the petitioner is not entitled to seek any relief for any specific candidate yet had Shweta Shrivastava scored even 60 marks out of 250, she would have in all probability been selected for the post of Deputy Collector whereas due to getting only a paltry 52 marks at the interview she has been selected for the post of Deputy Superintendent of Police In para 5.11 counse for petitioner stated that the functionaries like the respondent no.2 and the M.P.P.S.C. appointed in accordance with the provisions of the Constitution are not expected or capable of discharging their obligations in an unconstitutional manner as has been done in the instant case. The respondents have rather misused the Constitutional privilege and discretion in choosing to eliminate the candidates from Chhattisgarh State under a mistake notion of immunity from legal action whereas the petition has catalogued the injustice done to the people of Chhattisgarh at large capable of being cured through invoking the jurisdiction of this Court.

7) The petition is opposed by the respondent/ State M.P.P.S.C. So far as Chhattisgarh State is concerned, Dr.N.K. Shukla submitted that the State of Chhattisgarh has constituted its own commission which has started functioning. So far as legal question regarding maintainability of the petition and other aspects are concerned, he submits that public interest litigation has to be filed in accordance with the principles laid down and not for roving enquiry and to settle personal score.

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8) While Public Service Commission for the Union and for the State is constituted under Article 315 of the Constitution of India, Article 316 governs the appointment and term of office of members. Article 317 governs- Removal and suspension of a member of a Public Service Commission/- (1) Subject to the provisions of clause (3), provided that- the Chairman or any other member of a Public Service Commission shall only be removed from his office by order of the President on the ground of misbehaviour after the Supreme Court, on reference being made to it by the President has, on inquiry held in accordance with the procedure prescribed in that behalf under Article 145, reported that the Chairman or such other member, as the case may be, ought on any such ground to be removed.

9) The Public Service Commission for the Union as well as that of State is established under Constitution. The Chairman and the members hold constitutional posts. A petition or PIL challenging any action taken by them has to be filed with care and responsibility. The petitioner should not normally rush to the Court merely by reading newspaper because heavy responsibility lies on the person who files PIL. The petitioner has no personal knowledge about interviews. He has not shown that any person appeared in the examination had approached him, nor furnished any details of the enquiry made by him as to how they have been treated step-motherly. All these have not been disclosed in the petition in any manner. The petitioner states that through friends he inquired, but there, is no detail as to which, whom, when and for what the enquiry was made, no details of enquiry

has been furnished. The candidates who appeared in the examination have not stated so. During hearing we pointedly questioned and on 13/7/2001 even it was indicated in the order sheet, but no substantial allegations of malafide and partiality came to be furnished and even the affidavit filed by some candidates do not make any allegation regarding discrimination or step-motherly treatment with them by Chairman of the Board.

10) No material has been placed except some paper publication which said to be made in Newspaper by its writer. The petitioner has not at all placed any cogent material. The allegations which have been made in the petition have no basis. No details about the person interviewed and discriminated have come with relevant material inspite of opportunity given to the petitioner. On petitioner's own showing the process of recruitment started when the Chhattisgarh State was not formed. After formation of Chhattisgarh State the interviews were conducted between 21/3/2001 to 30/3/2001 whereafter petition has been filed on 9/5/2001.

11) It is pointed out by the respondent No. 3 that out of 1,58,463 candidates, 1,53,892 candidates were summoned for preliminary examination and thereafter 96,757 candidates appeared in the main examination and out of that 288 candidates were called for interview. The selection was made for 94 candidates. Neither any petition was filed nor any grievance was made against the selection so made by any individual. Even the news published in Dainik Bhaskar, the reporter in the end had ~~guesed~~ mentioned that it is reported that certain candidates are contemplating to move High Court of Chhattisgarh but none of the candidates filed any individual petition.

12) An application for intervention on behalf of Tuteja Coaching Institute has been filed. This institute claims to have admitted the students for coaching after obtaining fees. The Coaching Institute also did not file any petition on behalf of its students. None of the candidates of Institute has filed any petition. No relief has been claimed in favour of institution. They are running the Institute in commercial way. Even persons whose photographs/forms have been annexed, consent has not at all been filed and allegations made against them even.

13) There is another intervention application on behalf of Arvind Khaka and Kum. Silpa Deshmukh. Their relief is that they be allowed to agitate the rights as also assertion of such rights to the intervenors and other candidates from Chhattisgarh. Kum. Silpa Deshmukh in her affidavit stated that low marks have been awarded to her. She has not stated that she had appeared in Mr. Dubey's Board. Mr. Arvind Khaka in his affidavit stated that he got low marks. He has also not stated that he had appeared in the same Board. None of these persons in his affidavit has made wild and vexatious allegations as have made by petitioner against Chairman of the Board.

14) We have referred to the applications of Intervenors along with the petition. The Intervenors have not made any allegations against respondent no. 2 and against other members of Public Service Commission. In fact, the statements which have been made are very casual and without there being any basis to condemn the constitutional functionaries in which manner it has been done. The Public Service Commission has filed the return. They have also filed the documents. It has shown the marks obtained by each candidate in R.3.

It is pointed out that out of 94 posts, 27 persons have been selected from Chhattisgarh. The Board consists of Chairman, experts on the subject and members of P.S.C. It is not a single man's decision. It is the collective wisdom of the members. None of the members has been joined. We have absolutely not found any material against Chairman nor against any member of the Board and experts. The petitioner before filing the petition did not serve any notice. It appears that the petitioner read the newspaper and on the basis of the same rushed to the High Court without even verification of the allegations published. So far as each individual, who has appeared, is capable of protecting its own interest, it is not the case of the petitioner that the persons, who appeared in the examination, are not capable to agitate their grievance. No grievance has been raised regarding preliminary examination conducted out of thousands of candidates. None of the said persons has come-forwarded to file the petition. It is pointed out that so far as written test and interviews are concerned, the selection is dependent on various factors like the preference of the posts, i.e. Dy. Collector, Dy. S.P., Mahila Bal Vikas Adhikari and Sub-Registrar. Various options are to be given. If aperson does not come in the first category and secures low marks, he would be given a job of Dy. S.P. and not that of Dy. Collector. These facts are within the knowledge of each candidate. The petitioner did not verify about preference given by candidates. The Public interest, therefore, requires that where each individual has his own preference and interest, they can be agitated by the individuals themselves as it is within their own knowledge and not by way of public interest litigation and that too by such vague

and general petition casually filed without containing relevant material and against all principles of pleadings. The petition contains repeated mud-slinging and wild and vexatious allegations against Chairman who by virtue of the Provisions of State Re-Organisation Act, on the appointed day became Chairman of State Commission for both States and remained as such till the Chhattisgarh Service Commission was separately constituted. So far as intervenors are concerned, one way or the other, it appears that these persons have for publicity or otherwise just filed applications without carefully examining and studying. Taking into consideration the totality of the circumstances and material which have been placed on record, the public interest and confidence in the institution is sought to be damaged, by such petition and interventions application as filed rather than its advancement.

15) Shri Prashant Mishra & Shri P. Diwakar, learned counsel appearing for the intervenors opposing the petition submit that these persons who have been selected and placed material on record to show that persons have been selected from Chhattisgarh and persons who appeared in interview conducted by the Board chaired by Shri Dubey have been selected. Shri Prashant Mishra further points out that the mark-sheets filed by the petitioner along with the petition is without obtaining permission/consent. The petitioner or some one has inserved various things in mark-sheets. The affidavit filed by the petitioner is not in accordance with law. He referred pages 58 & 60 , the mark-sheets relate to the candidates who appeared in Garhaji's Board. All these things have been done by the petitioner. The petition has been filed along with cryptic and very vague affidavit and no material

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particulars have been stated in the affidavit in support of the petition. So far as respondent No. 2 is concerned, there is no material against him in the entire petition. The petitioner ought to know the consequences of making allegations against the constitutional functionaries.

17) Having thus considered the matter and examined, as stated in the foregoing paragraphs of the order, we are of the considered opinion that the petitioner has made vexatious and scandulous allegations without any basis and foundation. No material has been placed to substantiate the wild allegations. It has damaged the institution. Inspite of various opportunities given no material has been placed. Learned counsel for the petitioner failed to point out any material and has not been able to substantiate even prima facie the allegations He repeatedly made one submission that each and every case of the Board chaired by Shri Dubey be re-examined and this Court should do this exercise in public interest. He submitted that he will be able to argue and demonstrate if entire record is placed before Court and he is shown.

18) We heard this matter practically whole day and having given our thoughful consideration, we do not find any merit in the contention. It is devoid of substance. The petition has no substances and petitioner has failed to place or point out anything by which it can be said that the Chairman or members of Selection Board have acted in the manner as allegd by petitioner.

19) So far as applications for intervension supporting the petition are concerned, they are dismissed. The petition also fails and is dismissed.

20) Learned counsel for the respondents as well as

appearing in opposition to the writ petition submitted that inethe petition allegations have been made against Chairman without any basis. He prays that heavy cost be imposed as the petition damages the Selection Board as well as the entire institution. He left the cost to the discretion of the Court. Having considered the facts and circumstances of the case, exemplary cost of Rs. 10000/- is imposed on petitioner payable to respondent No. 2 and 3.

21. Learned counsel submits that certain coaching institutions like the present one Tuteja Coaching Institute are doing on commercial undertaking and students are allured. It is submitted that the Tuteja Institute has submitted certain document against the interest of candidates. In some cases photographs have also been appended. The institute has to be very careful. We do not wish to deal much on this aspect of the matter. It is noted that many coaching instutitesare coaching in and outside the State. Even in respect of Primary, Nursery and Higher Secondary Schools and colleges, permission is required. They are governed by statutes, rules & regulations and bye-laws formed by respective States and Central Governments. Even private schools and colleges are governed and standard and qualifications are prescribed. It appears that there is no check over persons carrying on Coaching institutions. The competition is increasing day by day. Many of the students and candidates are allured by advertisement or otherwise and huge profit earned. It has become commercial activity without any check from any quarter. The Governments both Central and State will be well advised to consider all these aspects and appropriate legislation, rules and regulations and guidelines regarding qualification of teachers or

coaches, availability of accommodation, hostel facilities etc. be laid down and for that purpose thorough investigation be made. Coaching classes, if required, may be conducted by the Government, Universities, colleges and Institutions recognised for the purpose so that the candidates desirous of appearing in the competitive examinations may well be benefited and are not exploited by any one.

22. Consequently, as discussed above, the petition fails and is dismissed with exemplary cost of Rs. 10000/- on petitioner payable to the respondents No. 2 and 3.

23. Counsel fee as per scale.

Sd/-
Chief Justice

Sd/-
Fakhruddin
Judge